UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/C.12/1996/NGO/1
27 February 1996

ENGLISH
Original: SPANISH

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
Fourteenth session
30 April-17 May 1996

IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement submitted by the Latin American Commission for the Rights and Freedoms of Workers and Peoples (CLADEHLT) and the American Association of Jurists, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is distributed in accordance with Economic and Social Council resolution 1988/4.

[26 February 1996]

GE.96-15447 (E)

SYNOPSIS OF THE SITUATION IN THE DOMINICAN REPUBLIC, EL SALVADOR, GUATEMALA AND PARAGUAY

Before presenting this report we must stress the need to bear in mind the general situation that is affecting all Latin American workers in the same way, though sometimes to varying degrees.

Social and economic rights, as enshrined in the various United Nations instruments, are the object of constant, systematic violations by all the countries of the region, as exemplified by the following practices and situations:

- Massive dismissals, particularly of civil servants, without any implementation of plans for the reabsorption and training of redundant workers.

- Increasingly precarious working conditions (established by law in some countries, such as Peru, where the "Employment Furtherance Act" of July 1995 introduced the practice of dismissing workers without just cause, reduced job security, "flexibilized" labour relations and eliminated the social benefits guaranteed by labour contracts, particularly for young workers).

- Restrictions on the freedom of unions; persecution of and assaults on workers and union leaders.

- Repudiation by the authorities of negotiation with workers and their representatives and adoption, in an undemocratic manner, of measures and laws detrimental to workers, without the requisite prior consultation. Closure of the dialogue with workers' organizations even in countries with an extensive democratic record such as Costa Rica, where 1995 was marked by the Government's refusal of dialogue with, and rejection of the proposals of, labour organizations and by crackdowns on workers' demonstrations.

- Poverty, with cutbacks and reductions in the lowest wages in all Latin American countries, including those which have experienced high levels of economic growth, demonstrating that the economic models in use favour an already privileged minority and are supported by the precarious and miserable living conditions of the poverty-stricken majority.

  Among the groups most affected are:

  (1) Women, particularly young female heads of households

  (2) Children and young people

  * Poverty is reflected in the disturbing reduction in children's height, low-birth weights, and the large numbers of students who leave school early or repeat grades.

* Poverty is the main cause of children's entry into the labour market: there is an estimated total of 20 million working children under 14 years of age in Latin America.

* Despite the concern of thousands of non-governmental organizations (NGOs), the phenomenon of street children is still a reality.

* 50 per cent of young people between the ages of 15 and 24, or a total of 45 million young Latin Americans, are living below the poverty line; most are barred from the educational system and have no access to the labour market.

(3) Pensioners and retired persons,

with very limited access to effective health services and with incomes below the level required for decent living conditions

(4) Indigenous persons

40 million of whom in Latin America live not only below the poverty line but in destitution

(5) The disabled

50 per cent of whom are so as a result of poverty (malnutrition, lack of health care coverage, etc.)

(6) Workers in rural areas

(7) Workers in foreign trade zones and in-bond assembly companies

(8) Workers in the informal sector,

who represent a growing percentage of the active population.

One result of this poverty and inequity has been the appearance of disturbing signs of social deterioration and violence such as the breaking-off of dialogue, the violent crackdowns on the growing number of demonstrations and, above all, an increase in the number of young jail inmates from the underprivileged areas.

* Privatization of essential public services, particularly the social services (health care, pensions).

* A drastic reduction in budgets for public education, with all the attendant consequences for the population. Lack of productive investment in the public education sector has led to deterioration in the quality of the service provided. Owing to the deficiencies in the basic school system and the precarious living conditions of Latin American families, no less than 50 per cent of Latin American children fail to complete primary school.

THE DOMINICAN REPUBLIC

One of the most serious cases that we have reported is the privatization of the National Sugar Council. There were attempts to set up unions in several companies in the country. Many employers flatly refused to recognize the recently-formed unions. In many cases, union leaders were discharged for exercising the right to unionize, although it is guaranteed by law. Such situations are confined to the foreign trade zones, where workers' rights as a whole are violated.

EL SALVADOR

At the end of 1995, there was a massive wave of dismissals from the civil service.

In October, the Legislative Assembly approved Presidential Decree No. 471, entitled "Temporary Law on Economic Compensation for Services Rendered in the Public Sector", which provides for the mandatory elimination of "unnecessary posts"; in other words, the dismissal of 15,000 workers in the public sector.

The law granted an extra bonus for workers who resigned prior to 15 December. After that date, other workers in so-called "unnecessary posts" were to be dismissed under conditions which openly contravene domestic law and the international agreements to which El Salvador is a party.

It must be emphasized that these measures directly affect workers' organizations at all levels. Moreover, the elimination of "unnecessary posts" is the result of a decision by some mid-level government administrators and has led to a number of situations in which the basic rules of government career employment are flouted.

Out of a total of 150,000 workers in the public sector, the lists of dismissals include some 15,000 names. One of the workers' organizations is the General Association of Public and Municipal Employees (AGEPYM), which represents approximately 40,000 employees. Of those workers, 7,000, including 18 of the 84 delegates and 11 of the 22 officers, were on the list of dismissals.

Among the other agencies and organizations affected are:

Governmental body	Total number of workers	Number of workers dismissed	Active and affiliated unions	Number of union members dismissed
Ministry of Agriculture and Livestock	2 700	1 300	ANTMAG - 900 workers	600 (including all the officers)
Ministry of Public Works	14 000	4 964	ASTMOP - 1 000 workers	400 (including 38 of the 85 union representatives and 5 of the 11 officers)
Office of Urban Development and Architecture				17 officers (all of them)
Highway Department				15 of the 18 officers
Office of the Deputy Minister for Housing				6 of the 9 officers
Department of Mechanical Engineering				3 of the 22 officers

Concurrently with these 15,000 dismissals, the Government is placing other persons in key positions. All of them are members of the National Republican Alliance (ARENA), the State party. This shows that the authorities are pursuing their goal of suppressing workers' organizations or attempting to control them through party officials.

Finally, in the course of the negotiations which have been conducted thus far without results, there have been threats to abolish paid time off for union leaders, which was a concession won by the workers' organizations and had existed for several decades in El Salvador.

Self-employed workers are similarly subjected to marginalization and, often, acts of violence committed by the police.

The markets built by the authorities to enable the thousands of self-employed workers in the capital to exercise their professions are not in conformity with hygiene and safety standards. Moreover, vendors plying their trade in the streets are subject to police violence.

GUATEMALA

Murders of and threats to union leaders are continuing, and those responsible are never identified or punished. Throughout 1995, a number of leading members of the Guatemalan Workers' Union (CGTG), including José E. Pinzón, its Secretary-General, have received death threats.

There have been several murders, including that of Manuel de Jesús Alonso, Secretary-General of the Puerto Barrios (Izabal) Municipal Union, who was the victim of a lethal assault on 24 October 1994. Despite heavy international pressure on the Guatemalan Government since the murder, those responsible are still at large.

Other union leaders have disappeared and no information on their whereabouts has been received. One such case is that of José Luis Zepeda Morales, member of the Tecún Oman (San Marcos) Custodians' Union.

The most serious aspect of human rights violations in Guatemala is the complete impunity which protects those responsible for the assaults, death threats and murders.

The year 1996 began with the murder of another union leader. On the night of Friday, 5 January, José Feliciano Godoy Vivas, head of the Association of Independent Taxi Drivers of Guatemala's Aurora Airport, a CGTG affiliate, was found dead in his cab.

Traces of blood and marks found in the cab suggested that there had been a fight and that one of the assailants had been wounded. Mr. Godoy died of a bullet wound in the head.

There had been two assaults on him and other leaders of the same organization during November 1995, and on Thursday, 4 January 1996 Justo Reyes, head of the union, was beaten by several unknown assailants.

It is presumed that those responsible are linked to Mafia groups operating at Guatemala's airport.

To complete this report we must also mention the situation of workers in the country's foreign trade zones, particularly the in-bond assembly companies. In practice, the freedom to unionize is unilaterally refused in those companies. To date, the great majority of the rare attempts to set up unions have met with strong resistance and been utterly crushed by the employers. Violations of the right to unionize not only make it impossible for unions to be set up, but also involve the dismissal of workers inclined to engage in union activities and to defend workers' rights. Emphasis should be laid on the situation of women and, in particular, indigenous women who work in such companies.

PARAGUAY

In 1994, CLADEHLT notified the International Labour Organization (ILO) of the subhuman living and working conditions of the employees of the coffee grower Eximpora S.A., which pays many workers less than the minimum wage and subjects union leaders to a merciless campaign of repression which prevents them from effectively exercising their union rights.

In November 1995, the ILO recognized the validity of our assertions and stated that Paraguay had the lowest wages of any Southern Cone Common Market (MERCOSUR) country. At its 264th session, in November 1995, the ILO Governing Body emphasized that from various studies on labour relations in Paraguay carried out under ILO auspices, it was clear that the situation reported by the Latin American Workers' Federation (CLAT) was evidence of a widespread non-compliance with regulations which had been seen in other companies as well.

Another problem urgently in need of solution is the eviction of tenant farmers. For example, in one camp 70 families, or a total of 210 persons, have been living in tents beside a river for several months, surviving with the help of the Church and some workers' organizations. They claim proprietorship of 900 hectares of land that are in the possession of a person who professes to own them but has no supporting documents. These families are awaiting the verdict in a lawsuit currently before the courts at the national level. Owing to the slowness of the proceedings, they are forced to live in unhealthy and inhuman conditions.

On 8 September 1995, CLADEHLT reported violent repressive action against a group of several hundred farm workers who were demonstrating in Santa Bárbara to obtain a prompt decision on their land claims. The police intervened brutally, using tear gas against the demonstrators and arresting some of them.

There have been dozens of similar cases.

Over the last few months, workers' organizations have instigated many demonstrations, which have resulted in cases of injury or even death. Although these deaths have been reported, those responsible remain unpunished. One such case was the murder of Sebastian Larrosa, a young peasant who was killed during the general strike of May 1994 and whose murderer remains unidentified and at large.

UNITED NATIONS

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Economic and Social Council

Distr.
GENERAL

E/C.12/1996/NGO/2
12 March 1996

ENGLISH
Original: SPANISH

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
Fourteenth session
30 April-17 May 1996

IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON
ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement submitted by the Central de Trabajadores Democráticos (El Salvador) and the International Confederation of Free Trade Unions, a non-governmental organization in consultative status (category I)

The Secretary-General has received the following written statement, which is distributed in accordance with Economic and Social Council resolution 1988/4.

[27 February 1996]

We value and pay tribute to the well-directed efforts and the determination with which reports by Governments on compliance with and continuing effectiveness of economic, social and cultural rights are examined and considered; we recognize that the world trade union movement is particularly and especially indebted to the United Nations for its orientation and guidelines which have provided, through the consideration of reports submitted by those who wield power, so valuable an instrument and means for supervising and directing the establishment of democracy and development. We are offered an outstanding opportunity to present our views, criticisms and observations as Salvadorans, working citizens and trade unionists.

I. We shall always recognize the oral and written skills deployed by the Government and its keen sense of propagandistic reconciliation. While we cannot deny that the war as an armed and bloody confrontation is over, we believe that the present stage is a purely technical change of tack which allows the same course to be maintained as neither the conduct of the State

authorities nor that of its officials have changed so as to open the way for effective participation by organized civil society. The judiciary does not allow the Government to lie about or to dissimulate the antagonism it foments and cultivates by violating the covenants, agreements and conventions and the entire body of positive law which recognizes and regulates man's condition and destiny and his right to well-being and security.

II. Even prior to the 1950 Salavadoran Constitution the trade unions have always advocated the need for a modicum of social equity and for effective constitutional recognition of the right to organize trade unions and freedom of association, and for the relationship between labour and capital to be determined in accordance with the Constitution, with secondary legislation and with international covenants, agreements and conventions. However, the positions and responses of the Government and its officials neither comply with nor show any consideration for the norms regulating labour and labour relations. Workers are systematically denied the norms and rights in question, and in particular the right to freedom of association and the right to organize trade unions. In practice workers' demands are rejected and the officials of the "Ministry of Labour and Social Welfare" are totally corrupt and incapable of supervising and ensuring compliance with the spirit of labour legislation. Agricultural workers are in a similar position as their right to participate is neither respected nor recognized despite their efforts before, during and after the war to press for their rights.

Acts of violence, failure to respect, non-compliance with and violation of the labour, human and trade union rights of rural and urban workers are more frequent each day; the new institutional order that has emerged from the peace agreements, the International Covenant on Economic, Social and Cultural Rights and national legal norms have remained a dead letter, a rhetorical device, and no effort has been made by the State authorities to adapt to the need for change required by law and by the new world environment.

III. We in the Central de Trabajadores Democráticos have direct experience of violence, of violation and systematic denial of the right to organize trade unions. We have experienced repression, threats, abduction and dismissal in defiance of trade union rights (dismissal of pregnant women), culminating in the psychological terror of death threats against trade unionists and their relatives to force them to resign from the union. (As happened on 22 December 1995 to the leadership of the workers' union of the Mandarin International Company (GAP), and on many other occasions).

IV. The report by the Government of El Salvador conceals the fact that the "Ministry of Labour and Social Welfare" is being used to close down places of employment in violation of collective bargaining agreements, of freedom of work and of the right to be informed; this occurred at the FAMOSA pasta and flour factory in January 1996, when the trade union was crushed without any attempt to safeguard the rights of the workers, who were compelled to accept the closure of the factory and the loss of their jobs, while the State did nothing to intervene as required by law (Constitution, art. 37: "Work is a social function and enjoys protection from the State ..."). The trade unions

can find no evidence of State protection for the economic, social and cultural rights recognized by the Covenant. In our experience violations of these rights are condoned rather than condemned. At the very least the Government should recognize that the conduct of the authorities and of officials is not in keeping with the spirit of labour legislation. It is by no means the case that the right to organize may effectively be exercised. In the last quarter of 1995 alone CTD was informed of the refusal to recognize the company trade union of RAYDER'S TEXTILES and of the variable capital enterprise GABO S.A., of the destruction of SETMI, the Mandarin International company's trade union (whose leaders were forced to resign), and in June 1995 of the destruction of the trade union of the variable capital enterprise SAMGBANGWOOL, APPAREL S.A.

V. Where social security is concerned, the State is depriving the population of protection and shifting the burden of assistance and social security to the individual, at a time when the number of poor is increasing because of the unfair distribution of GDP. Statistics reveal the rise in precariousness, delinquency, unemployment, marginalization and child labour. Large numbers of people are without social security and the solutions adopted do nothing to resolve the structural causes, but are directed rather towards traditional forms of assistance which thwart aspirations to a just distribution and sharing of the product of labour and of cooperation between capital, the State and workers. We once again assert that the conduct of the authorities in El Salvador disregards the law and that they shirk their true duty to administer and provide leadership for society. We believe that priority must be given to day-to-day practice and experience in the field of labour relations with regard to rights such as the right to work, the right to decent working conditions, trade union rights, the right to social security, the right to protection for the family, mothers and children, the right to education, etc. and that the conduct of the Government and of its officials must comply with and be based on existing legal norms; failing this, cycles of social unrest are inevitable as a result of the breakdown of the law and of reason and the corruption of government officials who disregard or misapply the law.

In its report to the United Nations on the implementation of article 9 of the International Covenant on Economic, Social and Cultural Rights the Government of El Salvador asserts that the ANTEL hospital "is financed by a grant from the National Telecommunications Administration (ANTEL) and by the contributions of its employees" and that it "covers a population of 49,577 people, composed of employees and their families, representing 0.9 per cent of the total population of the country".

Despite the claim made by the Government in paragraph 44 of the report that "The State ... is responsible for the provision of social security", we know for a fact that the hospital in question is currently being privatized; as a result, this joint worker-employer welfare and social security establishment, which provides care for workers, will cease to cater for those who have hitherto benefited from it.

We reaffirm our willingness to support and participate in any initiative whose aim is to ensure compliance with and implementation of the International Covenant on Economic, Social and Cultural Rights by contributing our experience and observations on specific developments in this area. It is our hope thus to contribute to progress with the process of re-education and of changing behaviour in order subsequently to generate deeper joint commitment to genuine peace, integration and social reconciliation for the benefit of authentic democracy, national development and international cooperation.

Carlos Alfredo Hurtado
General-Secretary of CTD (Stamp of CTD)